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12 SACRAMENTO, CALIFORNIA

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16 MONDAY, MAY 15, 2000

17 2:04 P.M.

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25 Reported by:

26
27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

SENATOR JACK O'CONNELL

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

ALSO PRESENT

TOMAS ALVARADO, Secretary
Veterans Affairs

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TOMAS ALVARADO, Secretary

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Okay we'll continue the hearing of Tomas Alvarado.

MR. ALVARADO: Good afternoon, Senator, Members.

CHAIRMAN BURTON: Good afternoon.

I believe that, Nettie, tomorrow is the last day for the Senate to act on your confirmation.

MS. SABELHAUS: Wednesday.

CHAIRMAN BURTON: We have time, lots of time.

So, tomorrow would be the last day for the Committee to report something, because we may have one more hearing on this.

But just to start, last week, when we talked about Paul Stevens, the Barstow resident who died, and it was testified, you testified that he died of a heart attack, and there was no need to report it to DHS.

We know now that Dr. Vu, the Barstow staff attending physician, and Coroner both said that the cause of death was that he had choked on a large piece of broccoli.

Do you still insist it was a heart attack?

MR. ALVARADO: The deposition that we were given by Dr. Vu, yes, sir, based on the statement that he made. Yes, sir.

CHAIRMAN BURTON: He made the statement?

MR. ALVARADO: Yes, sir.

CHAIRMAN BURTON: To whom?

MR. ALVARADO: To our counsel.

1 CHAIRMAN BURTON: I guess we've got to now bring
2 him in. Is he here?

3 MR. ALVARADO: Our counsel?

4 CHAIRMAN BURTON: No.

5 MR. ALVARADO: Dr. Vu, no.

6 CHAIRMAN BURTON: Now, were you present at
7 Barstow when Mr. Stevens died?

8 MR. ALVARADO: No, sir, I wasn't. I was at a
9 meeting for the VFW and American Legion in West Coven.

10 CHAIRMAN BURTON: Who reported the death to you?

11 MR. ALVARADO: I didn't find out about that
12 death until, gosh darn, it must have been March. And I think it
13 was --

14 CHAIRMAN BURTON: Somebody dies, and nobody
15 thinks it's worth mentioning?

16 MR. ALVARADO: I was there the whole weekend,
17 Senator. Nobody told me that he died. In fact, when he died, I
18 was surprised.

19 CHAIRMAN BURTON: Why were you surprised?

20 MR. ALVARADO: Nobody told me. No one told me.

21 CHAIRMAN BURTON: Who told you when they told
22 you?

23 MR. ALVARADO: I believe it was our counsel that
24 told me.

25 CHAIRMAN BURTON: Now, Dr. Vu said that the
26 Barstow administration started combing through his medical
27 charts for errors after he refused to change his diagnosis of
28 death and say it was a heart attack. His point is that he

1 always said that he was choked on a piece of broccoli.

2 MR. ALVARADO: That -- that's not what he gave us
3 a statement on, Senator. The statement -- I should have brought
4 it with me.

5 The deposition that he provided us was that he
6 was alive and was not -- that it was as the result of a heart
7 attack.

8 And I have it right here, sir.

9 SENATOR LEWIS: May I ask a question.

10 I guess the question I have --

11 CHAIRMAN BURTON: Wait a minute. This is from
12 Michael Gold. This is not from Dr. Vu.

13 Go ahead.

14 SENATOR LEWIS: At this point in time, have you
15 become aware that at any point in time, Dr. Vu was under any
16 pressure to file any kind of a false affidavit?

17 MR. ALVARADO: No.

18 SENATOR LEWIS: And he has not alleged that to be
19 the case?

20 MR. ALVARADO: No.

21 CHAIRMAN BURTON: He has alleged it to be the
22 case.

23 MR. ALVARADO: It's news to me. I haven't --
24 nobody's told me about this.

25 He has not written any -- communicated with me.

26 CHAIRMAN BURTON: Maybe he figures that's an idle
27 act.

28 He said that the administration started combing

1 through his medical charts for errors after he refused to change
2 his diagnosis and say it was a heart attack.

3 Obviously, you weren't aware of that. You just
4 said so.

5 Did they find any real errors in his charts? You
6 wouldn't know because you didn't know they did that.

7 The Department then placed him on administrative
8 leave, and then fired him instead of following the state's
9 progressive disciplinary policy.

10 Why did they do that?

11 MR. ALVARADO: Sir, I'd have to refer to -- our
12 interim administrator was pretty much in charge of that --

13 CHAIRMAN BURTON: You're here trying to keep a
14 job. You know this is an issue, and you pass the buck to
15 everybody.

16 Let me tell you, I'm semi-inclined to at least
17 let your matter go to the Floor for the Senate to work its will,
18 and I would vote not to confirm. But it's getting harder and
19 harder not just to let this thing run its path so we can deal
20 with other stuff that's equally as important, like the state
21 budget.

22 I mean, you come here. You know you've got a
23 problem. You know this is an issue. And this guy's got it, and
24 that guy's got it, and somebody else has got it.

25 And you don't even care to inform yourself about
26 it.

27 Here's a guy who was the doctor who performed
28 whatever with the patient who died, which is of some discussion

1 here, and was some discussion last week. And he got canned, and
2 you know nothing about it. Must have been somebody else.

3 That is a wonderful way to run the operation,
4 sir.

5 Okay, so we have to bring somebody else in, too.
6 Maybe we can keep hearing this all the way through next week.

7 The doctor said that the administrator,
8 Mr. Rigoli, told him that the order to place him on
9 administrative leave came from Headquarters. Obviously -- did
10 you issue that order?

11 MR. ALVARADO: Yes, sir, I did. I issued it
12 because we -- when I found out about this death, Dr. Vu has a
13 history of inconsistencies when it comes to documentation. So,
14 this pretty much reinforced the concerns that I had about his
15 practice application.

16 CHAIRMAN BURTON: When I asked you why you
17 placed him on administrative leave and fired him, you pointed to
18 somebody else. Now you're --

19 MR. ALVARADO I didn't fire him.

20 CHAIRMAN BURTON: -- saying you gave the order.

21 MR. ALVARADO: I didn't fire him.

22 CHAIRMAN BURTON: What is he on, then?

23 MR. ALVARADO: I think currently right now, I
24 don't think he's with us any more.

25 But I did not fire him.

26 CHAIRMAN BURTON: Well, he obviously didn't
27 quit, because he's going through a Skelley hearing, so somebody
28 did something.

1 Any questions anybody else has.

2 SENATOR O'CONNELL: If I may, was there an
3 autopsy done?

4 MR. ALVARADO: No, no. The body was cremated.

5 SENATOR O'CONNELL: Was that even discussed at
6 the time?

7 MR. ALVARADO: Not to my knowledge, Senator. Not
8 to my knowledge. It wasn't discussed with me or any of our
9 staff there, because he died -- supposedly he died at another
10 hospital outside the Veterans Home. He was supposed -- he was
11 alleged to be alive, was alive, when he left our facility. So,
12 he actually died at an outside facility.

13 CHAIRMAN BURTON: If I could, Senator.

14 "Checked the resident's heart," blah, blah, blah,
15 "Checked the resident's heart beat with a stethoscope. Detected
16 no heart beat during this time. I noticed he had a pacemaker. I
17 checked the airway. There was no air. I started CPR and asked
18 a person to check his mouth. After 30 seconds, there was no
19 pulse, color of his skin turned dark. I asked the CNA to put
20 her finger deeper in the mouth. She pulled out a piece of
21 broccoli and other food stuff. Air then came out."

22 Ergo, he was choking.

23 I tell you, I don't see any more purpose to this
24 hearing. I see absolutely no purpose to the hearing.

25 We're going to be on the Floor tomorrow. I may
26 or may not ask for the rules to be waived to have another one,
27 but, I mean, it's exceedingly, exceedingly difficult even to let
28 this go to the Floor, where my Members will be put in a position

1 of doing what they think is right, or having to support, you
2 know, an appointee of their own party's governor. I mean, it's
3 a difficult thing for me; it's even a more difficult decision
4 for other people.

5 But it doesn't get better. It gets worse. It
6 gets worse.

7 I mean, you know, nobody told you the guy choked
8 on a piece of broccoli. Told you he died of a heart attack.

9 What you just said about the guy's statement,
10 clearly said that whatever it is, the proximate cause, was
11 choking on the food, which stopped him from breathing, which
12 stopped the air, which caused heart attack.

13 If somebody shoots you, you end up dying of a
14 heart attack because your heart stops. It's how you die.

15 Unless somebody's got anything else to say, or
16 any questions, Secretary Johnson, you know, at our request,
17 directed Dr. Bonte to be here. And I think she has interviewed
18 Dr. Vu, who basically, his conversation with her confirms the
19 points that were laid out here. I don't know whether there's
20 any purpose of bringing the Department of Health Services.

21 I mean, I'm having real trouble dealing with
22 this. I don't know if that's obvious to anybody.

23 So, you don't know.

24 Anybody? Senator Hughes.

25 SENATOR HUGHES: I asked a lot of questions last
26 week. I did not receive satisfactory answers, and some refusal
27 to give a satisfactory answer was absolutely ridiculous.

28 I'd like to move adjournment of the meeting, if

1 it's in order.

2 CHAIRMAN BURTON: It's always in order.

3 It's been moved that the meeting adjourn.

4 Any objections, all Members will be recorded Aye,
5 the motion to adjourn. Without objection.

6 [Thereupon this portion of the
7 Senate Rules Committee hearing was
8 terminated at approximately 2:20 P.M.]

9 --ooOoo--

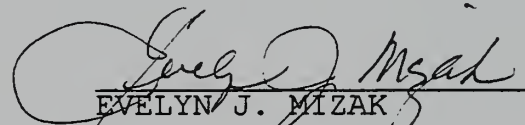
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of May, 2000.


EVELYN J. MIZAK
Shorthand Reporter

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